

1 KEVIN K. ENG (SBN 209036)  
keng@mzclaw.com  
2 MARKUN ZUSMAN FRENIERE & COMPTON LLP  
465 California Street, 5th Floor  
3 San Francisco, California 94104  
Telephone: (415) 438-4515  
4 Facsimile: (415) 434-4505

5 Attorneys for Plaintiffs

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8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 STEVEN SIEGAL, JAMES RYBICKI, DAVID ) Case No. 13 Civ. 3570-JSC  
12 GROBLEBE, individually and as General Partner )  
13 of GROBCO II, and CHRISTIAN WIPF, ON ) **FIFTH STIPULATION AND**  
14 BEHALF OF THEMSELVES AND ALL ) **~~PROPOSED~~ ORDER STAYING**  
15 INDIVIDUALS SIMILARLY SITUATED, ) **PROCEEDINGS**

14 Plaintiffs,)

15 vs. )

16 G. THOMAS GAMBLE, LOREN J. MILLER, )  
17 HENRY LOWENSTEIN, PAUL W. BATEMAN, )  
18 EDWARD M. GABRIEL, JAMES S. MAYER, )  
19 BEHROOZ SARAFRAZ, LYNN BLYSTONE, )  
20 ALFRED LOPEZ, MASTON CUNNINGHAM, )  
21 JOHN DURBIN, GREG BILLINGER, K&L )  
22 GATES LLP, CHARLES A. DALE III, JOSHUA )  
23 LANE, AND DOES 1 THROUGH 100, )  
24 INCLUSIVE, )

21 Defendants.)

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1 WHEREAS, on June 27, 2013, plaintiffs filed a Complaint (the “Complaint”) in the  
2 Superior Court of the State of California, County of San Francisco against the named defendants;

3 WHEREAS, on August 1, 2013, the action was timely removed from the Superior  
4 Court of the State of California, County of San Francisco, to the United States District Court for  
5 the Northern District of California;

6 WHEREAS, all parties have agreed that it is in the best interests of all parties to  
7 explore the possibility of consensual resolution and to stay this litigation during that process;

8 WHEREAS, a mediation involving the parties and counsel in this action and in the  
9 jointly administered proceedings in the United States Bankruptcy Court for the District of  
10 Delaware (Case No. 12-12291 (MFW)) was held on November 12, 2013 (the “November  
11 Mediation”);

12 WHEREAS, the November Mediation was productive, but the parties agreed that  
13 further mediation sessions would be beneficial, and accordingly subsequent mediation sessions  
14 were held on January 8, 2014, and on February 7, 2014;

15 WHEREAS, a number of the parties have reached agreements in principle, and are  
16 in the process of finalizing all the terms of their agreements;

17 WHEREAS, in furtherance of efforts to reach a consensual resolution, the parties  
18 previously entered into stipulations to stay proceedings in this action temporarily, while preserving  
19 any and all claims, defenses, or other rights they may have, and without prejudice to any party;

20 WHEREAS, the Court previously approved the parties’ prior stipulations (See Doc.  
21 Nos. 18, 22, 24), with the most current stay scheduled to lapse on February 28, 2014;

22 WHEREAS, the parties believe that a further temporary stay of proceedings is  
23 likely to conserve judicial economy and the parties’ resources;

24 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and  
25 between and among all parties, subject to the approval of the Court, as follows (the “Stipulation”):

- 26 1. The above-captioned action shall be stayed until April 25, 2014;  
27 2. Plaintiffs’ deadline to file a motion to remand is extended until May 26,  
28 2014;

1           3. Defendants' deadline to file a responsive pleading or a motion to dismiss  
2           the Complaint is extended until June 16, 2014 or, in the event that a motion to  
3           remand is filed, until 45 days after the entry of the Court's order deciding the  
4           remand motion;

5           4. The Case Management Conference ("CMC") currently set for ~~June 5, 2014~~ April 3, 2014  
6           is continued until July 31, 2014. All other deadlines listed in the Order Setting  
7           Initial Case Management Conference and ADR Deadlines are continued  
8           accordingly. The deadline by which the parties must file written consent to the  
9           jurisdiction of the magistrate judge or request reassignment to a district judge also  
10          shall be continued until the date on which the parties must file the initial CMC  
11          statement;

12          5. The fact of this Stipulation shall not be used by any party in arguing against  
13          any motion or pleading that may be filed, including responsive pleadings, motions  
14          to dismiss the Complaint, or other motions (including, without limitation, motions  
15          for transfer or motions for remand), and this Stipulation and the fact of delay due to  
16          this stay may not be used in any way in support of or against any motion that may  
17          be filed by any party;

18          6. This Stipulation shall not act to shorten the time that any party would  
19          otherwise have to move or respond pursuant to the Federal Rules of Civil  
20          Procedure or any applicable local rules, and shall be without prejudice to any  
21          party's right to seek, and the opposing parties' right to oppose, an additional  
22          extension of time to file or respond; and

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1           7.       No defenses of any defendant to this action, including without limitation the  
2           defense of lack of personal jurisdiction, are prejudiced or waived by the submission  
3           of this Stipulation.  
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5   Dated: 2/28/2014

6                                   SIMPSON THACHER & BARTLETT LLP  
7

8                           By /s/  
9   Simona G. Strauss

10                                   Attorneys for Defendants Paul W. Bateman, Greg  
11                                   Billinger, Maston Cunningham, John Durbin,  
12                                   Edward M. Gabriel, Henry Lowenstein, James S.  
13                                   Mayer, and Loren J. Miller

13   Dated: 2/28/2014

14                                   AKERMAN LLP (F/K/A AKERMAN  
15                                   SETERFITT)

16                           By /s/  
17   Karen Ciccone

18                                   Attorneys for Defendant Lynn Blystone  
19

20  
21   Dated: 3/3/2014

22                                   COOKE KOBRICK & WU LLP

23                           By /s/  
24   Christopher C. Cooke

25                                   Attorneys for Defendants Behrooz Sarafranz and  
26                                   Alfred Lopez

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1 Dated: 2/28/2014

REED SMITH LLP

2  
3 By /s/  
James Neudecker

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5 Attorneys for Defendant G. Thomas Gamble

6  
7 Dated: 2/28/2014

8 K&L GATES LLP

9 By /s/  
Charles Tea

10  
11 Attorneys for Defendants K&L Gates LLP, Charles  
A. Dale III, and Joshua Lane

12  
13 Dated: 2/28/2014

14 MARKUN ZUSMAN FRENIERE & COMPTON  
LLP

15 By /s/  
Edward S. Zusman

16  
17 Attorneys for Plaintiffs

**ORDER**

Pursuant to the parties' stipulation and pursuant to Rule 6-1(a) of the Civil Local Rules, the Court hereby adopts and approves the terms of the parties' stipulation set forth above. This action is stayed until April 25, 2014. The Case Management Conference is continued to July 31, 2014, at 10:00 am. ~~1:30 p.m.~~ A joint Case Management Statement and Consent/Declination are due on July 24, 2014. IT IS SO ORDERED.

Dated: 3/11/14



The Honorable ~~Jacqueline S. Corley~~  
United States ~~Magistrate Judge~~  
District Judge